

D R A F T
FOR APPROVAL

**UNIFORM INTERSTATE ENFORCEMENT
OF DOMESTIC VIOLENCE ORDERS ACT**

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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**UNIFORM INTERSTATE ENFORCEMENT
OF DOMESTIC VIOLENCE ORDERS ACT**

WITH PREFATORY NOTE AND COMMENTS

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NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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**DRAFTING COMMITTEE ON
INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE ORDERS ACT**

MARIAN P. OPALA, Supreme Court, Room 238, State Capitol, Oklahoma City, OK 73105, *Chair*
DEBORAH E. BEHR, Office of Attorney General, Department of Law, P.O. Box 110300, Juneau,
AK 99811

FRANK W. DAYKIN, 4745 Giles Way, Carson City, NV 89704, *Committee on Style Liaison*
WANDA WILLIAMS FINNIE, Office of the Public Defender, 121 Plumstead Drive, Freehold,
NJ 07728

SHAUN P. HAAS, Legislative Council, Suite 401, 1 E. Main Street, Madison, WI 53701-2536
ROGER P. MORGAN, P.O. Box 588, Mystic, CT 06355

PETER K. MUNSON, P.O. Box 1949, 123 S. Travis Street, Sherman, TX 75091-1949
ANN BOWEN POULIN, Villanova University School of Law, 299 North Spring Mill Road, Garey Hall,
Villanova, PA 19085

BATTLE R. ROBINSON, 104 W. Market Street, Georgetown, DE 19947

ROBERT B. WEBSTER, 255 S. Old Woodward Avenue, 3rd Floor, Birmingham, MI 48009

ANDREW C. SPIROPOULOS, Oklahoma City University, School of Law, 2501 N. Blackwelder,
Oklahoma City, OK 73106, *Reporter*

EX OFFICIO

JOHN L. McCLAUGHERTY, P.O. Box 553, Charleston, WV 25322, *President*

ROBERT C. ROBINSON, P.O. Box 568, 12 Portland Pier, Portland, ME 04112, *Division Chair*

AMERICAN BAR ASSOCIATION ADVISOR

JAMES R. RIEHL, 614 Division Street, MS-25, Port Orchard, WA 98366-4684

EXECUTIVE DIRECTOR

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OK 73019, *Executive Director*

WILLIAM J. PIERCE, 1505 Roxbury Road, Ann Arbor, MI 48104, *Executive Director Emeritus*

Copies of this Act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
211 E. Ontario Street, Suite 1300
Chicago, Illinois 60611
312/915-0195

www.nccusl.org

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UNIFORM INTERSTATE ENFORCEMENT OF DOMESTIC VIOLENCE ORDERS ACT

PREFATORY NOTE

I. Introduction

The Uniform Interstate Enforcement of Domestic Violence Orders Act (“the Act”) provides a uniform mechanism for the interstate enforcement of domestic-violence protection orders. The need for such a mechanism is founded on the widespread understanding that States have not consistently or effectively enforced domestic-violence protection orders issued by other States. The Act, thus, has two main purposes. First, it defines the meaning of interstate enforcement in the context of the enforcement of domestic-violence protection orders. Second, it establishes uniform procedures for the effective interstate enforcement of domestic-violence protection orders.

The Congress of the United States, recognizing the severity of the problems with the interstate enforcement of protection orders, enacted the Violence Against Women Act (“VAWA”), 18 U.S.C. Sec. 2265, which requires States to enforce the domestic-violence protection orders of other States. VAWA, however, while mandating enforcement, is either silent or ambiguous regarding several important questions that must be answered in order to establish an effective system for the interstate enforcement of these orders.

First, VAWA does not sufficiently explain the meaning of core requirements of the federal law. For example, VAWA requires that States enforce the orders of other States as if they were the protection orders of the enforcing State. This mandate, however, does not answer the question of whether States are required to enforce provisions of foreign protection orders that would not be authorized by the law of the enforcing State. This question, and others, must be answered if there is to be effective uniform enforcement of protection orders. Second, VAWA does not specify the enforcement procedures States must establish to comply with the federal mandate. For example, VAWA is silent on whether individuals seeking the enforcement of a protection order must register or file the order with the enforcing State before action can be taken on their behalf. This Act resolves the issues left unanswered in VAWA.

II. The Requirements of Interstate Enforcement

The Act first defines what it means to accord interstate enforcement to domestic-violence protection orders. These orders must be enforced if the issuing

1 tribunals had jurisdiction over both the parties and the matter under the law of the
2 issuing State and if the individual against whom the order is enforced was given
3 reasonable notice and afforded an opportunity to be heard consistent with the right
4 to due process. If the order was obtained ex parte, this notice and opportunity to be
5 heard must be provided within a reasonable time.

6 The Act makes it clear that all the terms of the orders of the issuing States
7 must be enforced, even if the law of the enforcing State would not authorize
8 particular terms of the orders. The Act also provides that all protection orders,
9 including criminal orders issued by a State which allows the equivalent of civil
10 protection orders to be issued by a criminal court (provided that a protected
11 individual has standing to seek enforcement of the provisions of such a criminal
12 order), satisfying the criteria of validity, must be enforced. In addition, provisions of
13 protection orders governing custody and visitation matters are enforceable under
14 this Act. Terms that concern support are not. In addition, the terms of mutual
15 protection orders issued in favor of a respondent are also not enforceable if they
16 were not issued in response to a written pleading filed by the respondent and if the
17 issuing tribunal did not make specific findings in favor of the respondent.

18 **III. Enforcement Procedures**

19 The Act also provides uniform procedures for the interstate enforcement of
20 domestic-violence protection orders. The Act envisions that the enforcement of
21 foreign protection orders will require law enforcement officers of enforcing States to
22 rely on probable cause judgments that a valid order exists and has been violated.
23 The Act, however, provides that if a protected individual can provide direct proof of
24 the existence of a facially valid order, by, for example, presenting a paper copy or
25 through an electronic registry, probable cause is conclusively established. If no such
26 proof is forthcoming, the Act provides that if officers, relying on the totality of the
27 circumstances, determine that there is probable cause to believe that a valid
28 protection order exists and has been violated, the order will be enforced. The
29 individual against whom the order is enforced will have sufficient opportunity to
30 demonstrate that the order is invalid when the case is brought before the enforcing
31 tribunal. Law enforcement officers, as well as other government agents, will be
32 encouraged to rely on probable cause judgments by the Act's inclusion of an
33 immunity provision, protecting agents of the government acting in good faith.

34 The Act, once again filling a gap left by VAWA, does not require individuals
35 seeking the enforcement of a protection order to register or file the order with the
36 enforcing State. The Act does, however, include an optional registration process.
37 This process permits individuals to register a protection order by presenting a copy
38 of the order to a responsible state agency or any state officer or agency. The copy
39 presented must be certified by the issuing State. The purpose of these procedures is

- 1 to make it as easy as possible for the protected individual to register the protection
- 2 order and facilitate its enforcement.

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**UNIFORM INTERSTATE ENFORCEMENT
OF DOMESTIC VIOLENCE ORDERS ACT**

SECTION 1. DEFINITIONS. In this [Act]:

(1) “Foreign protection order” means a protection order issued by a tribunal of another State.

(2) “Issuing State” means the State whose tribunal issues a protection order.

(3) “Mutual foreign protection order” means a foreign protection order that includes provisions issued in favor of both the protected individual seeking enforcement of the order and the respondent.

(4) “Protected individual” means an individual protected by a protection order.

(5) “Protection order” means an injunction or other order, issued by a tribunal under the domestic-violence or family-violence laws of the issuing State, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to another individual.

(6) “Respondent” means the individual against whom enforcement of a protection order is sought.

(7) “State” means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession

1 subject to the jurisdiction of the United States. The term includes an Indian tribe or
2 band, or Alaskan native village, that has jurisdiction to issue protection orders.

3 (8) “Tribunal” means a court, agency, or other entity authorized by law to
4 issue or modify a protection order.

5 **Comment**

6 The term “protection order” includes only those orders issued under the
7 domestic-violence or family-violence laws of the issuing State. Protection orders
8 issued outside of the domestic or family violence context are not enforceable under
9 the provisions of this Act. The scope of enforceable protection orders is further
10 limited by the provisions of Section 2(a) and (b). In addition, the term “protection
11 order” includes an order modifying a previous order. Thus, a modified order, is
12 enforceable, under the Act, in the same manner as a newly issued order.

13 The terms “protected individual” and “respondent” refer to the relief sought
14 by the parties in the action brought in the enforcing State. The Act recognizes that
15 neither the protected individual nor the respondent may have been a named party in
16 the action brought in the issuing State; the Act applies to individuals meeting the
17 definition of protected individual or respondent whether they were named in the
18 caption or the body of the protection order. The Act also recognizes that the parties
19 may have been called by different terms, e.g. plaintiff, defendant, petitioner, in the
20 issuing State.

21 The term “mutual protection orders” refers to protection orders in which an
22 issuing State includes provisions protecting both parties. Enforcement of these
23 foreign protection orders is governed by Section 2(g).

24 The Violence Against Women Act, 18 U.S.C. Sec. 2265, requires that States
25 accord full faith and credit to tribal protection orders. Like state orders, tribal
26 orders must satisfy the criteria for validity, as defined in Section 2(d), in order to
27 qualify for interstate enforcement across state or tribal lines.

28 The Act uses the term “tribunal,” rather than “court,” in order to
29 accommodate States that rely upon administrative or other entities to issue or
30 modify protection orders.

1 **SECTION 2. JUDICIAL ENFORCEMENT OF ORDER.**

2 (a) A tribunal of this State shall enforce a valid foreign protection order,
3 including terms that provide relief that a tribunal of this State may not provide. A
4 tribunal of this State shall enforce a valid foreign protection order issued by a civil
5 or criminal tribunal, whether the order was obtained by independent action or in
6 another proceeding, if it is a civil order issued in response to a complaint, petition,
7 or motion filed by or on behalf of an individual seeking protection. A tribunal of this
8 State may not enforce an order issued by a criminal tribunal that does not recognize
9 the standing of a protected individual to seek enforcement of the order.

10 (b) A tribunal of this State shall enforce the provisions of a valid foreign
11 protection order which governs custody and visitation. The custody and visitation
12 provisions of the order must have been issued in accordance with the jurisdictional
13 requirements governing the issuance of custody and visitation orders in the issuing
14 State.

15 (c) A tribunal of this State may not enforce under this [Act] an order or
16 provision of an order governing support.

17 (d) A protection order is valid if it:

18 (1) names the protected individual and the respondent;

19 (2) has not been modified or vacated, and has not expired;

20 (3) was issued by a tribunal that had jurisdiction over the parties and
21 matter under the law of the issuing State; and

1 enforced by criminal sanctions upon the request of the State, then it does not qualify
2 for enforcement under this Act. For example, orders issued by criminal courts that
3 provide for the revocation of bail, probation, or parole upon motion by the State will
4 not qualify for enforcement under this Act. An enforcing State may, however,
5 choose to enact and enforce a separate criminal law providing for the prosecution of
6 individuals who violate a foreign protection order. In addition, the respondent may
7 have violated other criminal laws of the enforcing State; the enforcing State may, of
8 course, prosecute the respondent for these violations.

9 The provisions of protection orders that govern custody and visitation rights
10 must also be enforced. These provisions may only be enforced, however, if they
11 were issued in accordance with the jurisdictional requirements for the issuance of all
12 custody and visitation orders, contained, depending on the State, either in the
13 Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction
14 and Enforcement Act, and the federal Parental Kidnaping Prevention Act. This Act,
15 however, does not provide for the enforcement of orders governing custody and
16 visitation rights that are not included in a protection order. In addition, orders or
17 provisions of protection orders governing support are not enforceable under this
18 Act; provisions of these orders should be enforced using the process provided in the
19 specific laws governing the issuance, modification, and enforcement of these orders,
20 including, but not limited to, the Uniform Interstate Family Support Act.

21 Subsection (a) implements the core purpose of the mandate of the Violence
22 Against Women Act, 18 U.S.C. Sec. 2265(a). This section requires tribunals of
23 enforcing States to enforce the specific terms of protection orders of other States.
24 This provision means that the tribunals of enforcing States should enforce the
25 specific terms of a foreign protection order even if their state law would not allow
26 the relief in question. For example, if the law of the issuing State allows protection
27 orders to remain effective for a longer period than is allowed by the enforcing State,
28 the tribunal of the enforcing State should enforce the order for the time allowed by
29 the issuing State.

30 Subsection (e) should not be interpreted to foreclose actions brought by
31 state agencies and officers, such as prosecutors, acting on behalf of the protected
32 individual. The Act, however, in recognizing the importance of these agencies and
33 officers, should not be interpreted to mean that States, and their agencies and
34 officers, are required to bring these actions when possible.

35 The respondent's constitutional right to due process is protected by the
36 opportunity to raise defenses in the enforcement proceeding, as provided in
37 subsection (f). If, for example, the respondent was not provided with reasonable
38 notice and opportunity to be heard by the tribunal of the State issuing the protection
39 order, the enforcing tribunal may not enforce the order. Thus, the interstate

1 enforcement of a valid foreign protection order, even without a prior hearing, does
2 not deprive the respondent of any rights to due process because the respondent was
3 provided with reasonable notice and opportunity to be heard when the order was
4 issued.

5 The enforcement mechanisms established by the Act do not require the
6 presentation by the protected individual of an authenticated copy of the foreign
7 protection order. While States, as required by the Constitution and federal statutes
8 that articulate authentication requirements, including 28 U.S.C. Sec. 1738, must
9 accord properly authenticated foreign judgments full faith and credit enforcement,
10 they may choose to enforce foreign orders they would not be required to enforce
11 under the provisions of the Constitution or other federal law. By adopting this Act,
12 States have chosen to give that extra measure of full faith and credit to foreign
13 protection orders.

14 In addition, in recent years, particularly with regard to the enforcement of
15 domestic relations orders, the federal government has employed the power granted
16 to it by Article IV, Sec. 1 of the Constitution of the United States to prescribe the
17 manner in which States give full faith and credit to the acts, records, and
18 proceedings in other States to require States to enforce the orders of other States in
19 circumstances in which States have traditionally been reluctant to render such
20 enforcement. For example, the federal Parental Kidnaping Prevention Act, 28
21 U.S.C. Sec. 1738A, requires greater interstate enforcement of child custody orders
22 and the federal Personal Responsibility and Work Opportunity Reconciliation Act,
23 110 Stat. 2105 (1996), requires that States, in order to facilitate the enforcement of
24 support orders, adopt the provisions of the Uniform Interstate Family Support Act.
25 The Violence Against Women Act extends the principle of these laws to the subject
26 of the interstate enforcement of domestic-violence protection orders.

27 Subsection (g), adapted from the federal Violence Against Women Act, 18
28 U.S.C. Sec. 2265(c), addresses the enforcement of mutual foreign protection orders,
29 which contain provisions protecting both the protected individual and the
30 respondent. Provisions of a mutual foreign protection order issued in favor of the
31 respondent will not be enforced without proof that the respondent filed a written
32 pleading seeking a protection order. If a respondent can prove that he or she made
33 a specific request for relief and that the issuing tribunal made specific findings that
34 the respondent was entitled to the requested relief, the protection orders will be
35 enforced against the protected individual.

36 In order to facilitate the interstate enforcement of foreign protection orders,
37 States should strongly consider requiring tribunals that issue protection orders to
38 state clearly that these orders are entitled to interstate enforcement under both
39 federal and state law. Such enforcement would also be greatly facilitated if issuing

1 States provided each protected individual with a certified copy of the protection
2 order. In addition, States should consider adopting a standard certification or
3 confirmation form stating the protection order issued by their tribunals satisfies the
4 criteria of validity articulated in subsection (d), thus qualifying the protection order
5 for interstate enforcement. Use of the following certification form is recommended.

6 _____(Name), : IN THE _____COURT OF
7 Plaintiff : _____(County/Judicial District)
8 : _____(State/Territory)
9 vs. : CIVIL ACTION – LAW
10 : PROTECTION/RESTRAINING ORDER
11 _____(Name), :
12 Defendant : Docket No. _____, 200_____

13 Certification of Protection/Restraining Order

14 It is hereby certified that the attached is a true and correct copy of the order entered
15 in the above-captioned action on _____(date) and that the original of
16 the attached order was duly executed by the judicial authority whose signature
17 appears thereon. The order expires on _____ (date).

18 The order is: [] a civil protection/restraining order
19 OR [] a criminal protection/restraining order, that recognizes the
20 standing of the plaintiff to seek enforcement of the order

21 It is further certified that:

22 (a) the issuing court determined that it had jurisdiction over the parties and the
23 subject matter under the laws of _____ (State or
24 Indian tribe).

25 (b) the defendant was given reasonable notice and opportunity to be heard
26 sufficient to protect the defendant's right to due process before this order was
27 issued; or if the order was issued ex parte, the defendant was granted reasonable
28 notice and opportunity to be heard within the time after the order was issued,
29 consistent with the rights of the defendant to due process.

30 (c) the order was otherwise issued in accordance with the requirements of the
31 Uniform Interstate Enforcement of Protection Orders Act, and the Violence Against
32 Women Act, 18 U.S.C. § 2265.

33 For custody and visitation orders:

1 9 the order was issued in accordance with the requirements of the Uniform
2 Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and
3 Enforcement Act of this State/territory and is consistent with the provisions of the
4 Parental Kidnaping Prevention Act. 28 U.S.C. § 1738A.

5 The attached order shall be presumed to be valid and enforceable in this and other
6 jurisdictions.

7 Signature of Clerk of Court or other authorized official: _____

8 Judicial District: _____ Address: _____

9 Phone: _____ Fax: _____ Date: _____

10 Seal:

11 **SECTION 3. NONJUDICIAL ENFORCEMENT OF ORDER.**

12 (a) A law enforcement officer of this State, upon determining that there is
13 probable cause to believe that a valid foreign protection order exists and that the
14 order has been violated, shall enforce the order as if it were the order of a tribunal of
15 this State. Presentation by the protected individual of a protection order that names
16 both the protected individual and the respondent and, on its face, has not been
17 modified or vacated and has not expired constitutes probable cause to believe that a
18 foreign protection order exists. For the purposes of this section, the protection
19 order may be inscribed on a tangible medium or may have been stored in an
20 electronic or other medium if it is retrievable in perceivable form. Presentation of a
21 certified copy of a protection order is not required for enforcement.

22 (b) If a protected individual does not present the protection order, in
23 determining whether there a law enforcement officer has probable cause to believe

1 that a valid foreign protection order exists, the officer may rely upon any relevant
2 source of information.

3 (c) If a law enforcement officer of this State determines that an otherwise
4 valid foreign protection order cannot be enforced because the respondent has not
5 been notified or served with the order, the officer shall inform the respondent of the
6 order and make a reasonable effort to serve the order upon the respondent. After
7 informing the respondent and serving the order, the officer shall allow the
8 respondent a reasonable opportunity to comply with the order before enforcing the
9 order.

10 (d) Registration or filing of an order in this State is not required for the
11 enforcement of a valid foreign protection order pursuant to this [Act].

12 **Comment**

13 The enforcement procedures in subsection (a) and (b) rely on the sound
14 exercise of the judgment of law enforcement officers to determine whether there
15 exists probable cause to believe that a valid foreign protection order exists and has
16 been violated. These procedures anticipate that there will be many instances in
17 which the protected individual does not have, or cannot, under the circumstances,
18 produce a paper copy of the foreign protection order. Subsection (a) establishes a
19 per se rule for determining probable cause of the existence of an order. If the
20 protected individual presents, whether by providing a paper copy (which need not be
21 certified) of a protection order or through an electronic medium, such as access to a
22 state registry of orders, proof of a facially valid order, the order should be enforced.

23 Subsection (b) concerns the circumstance in which the protected individual
24 cannot present direct proof of the protection order. In this situation, law
25 enforcement officers are expected to obtain information from all available sources,
26 including interviewing the parties and contacting other law enforcement agencies, to
27 determine whether there is a valid protection order in effect. If the officer finds,
28 after considering the totality of the circumstances, that there is probable cause to
29 believe that a valid foreign protection order exists and has been violated, he or she
30 should enforce the order. If it is later determined that no such order was in place or
31 the order was otherwise unenforceable, law enforcement agencies, officers, or other

1 state officials will be protected by the immunity provision of Section 5 for actions
2 taken in good faith.

3 Subsection (c) provides that if a law enforcement officer discovers in the
4 course of a probable cause investigation that the respondent has not been notified of
5 the issuance of or served with an otherwise valid foreign protection, the officer
6 should then inform the respondent of the terms and conditions of the protection
7 order and make a reasonable effort to serve the order upon the respondent. Once
8 served, the respondent should be allowed a reasonable opportunity to comply with
9 order. If the respondent refuses to comply, the order should be enforced.

10 Subsection (d) makes clear that, if a State either adopts its own process for
11 the registration or filing of foreign protection orders or adopts the process provided
12 in Section 4, the State shall not require the registration or filing of a foreign
13 protection order for enforcement.

14 **[SECTION 4. REGISTRATION OF ORDER.]**

15 (a) Any individual may register a foreign protection order in this State. To
16 register a foreign protection order, an individual shall:

17 (1) present a certified copy of the order to [the state agency responsible
18 for the registration of such orders]; or

19 (2) present a certified copy of the order to [an agency designated by the
20 State] and request that the order be registered with [the agency responsible for the
21 registration of such orders].

22 (b) Upon receipt of a protection order, [the agency responsible for the
23 registration of such orders] shall register the order in accordance with this section.
24 After the order is registered, [the responsible agency] shall furnish to the individual
25 registering the order a certified copy of the registered order.

1 (c) [The agency of this State responsible for the registration of foreign
2 protection orders] shall register an order upon presentation of a copy of a protection
3 order which has been certified by the issuing State. For purposes of this section, this
4 requirement of a certified copy may only be satisfied by a writing on paper, and may
5 not be satisfied by a record in any other medium, even if the record ultimately may
6 be displayed on paper.

7 (d) An individual registering a foreign protection order shall file an affidavit
8 by the protected individual that, to the best of the individual's knowledge, the order
9 is in effect.

10 (e) A foreign protection order registered under this [Act] may be entered in
11 any existing state or federal registries of protection orders, in accordance with state
12 or federal law.

13 (f) Any individual who believes that the individual has been named the
14 respondent in a foreign protection order that has been registered in this State may
15 prove that the order is not in effect or that the individual is not the respondent
16 named in the order. Upon proof that a registered foreign protection order is not in
17 effect or is inaccurate, [the agency of this State responsible for the registration of
18 foreign protection orders] shall remove the order from the registry or shall correct
19 the registration. The agency shall then inform any state or federal registry that the
20 agency is aware has registered the order that the order is no longer in effect or the
21 registration has been corrected.

1 foreign protection order brought on or after [the effective date of this [Act]] for
2 violations of a foreign protective order occurring before [the effective date of this
3 [Act]] is governed by the provisions of this [Act].

4 **Comment**

5 The provisions of this Act apply to all requests for enforcement of foreign
6 protection orders, both continuing and newly filed, made on or after its effective
7 date. In addition, the provisions of this Act apply to the enforcement of foreign
8 protection orders issued before the effective date of this Act and to requests for
9 enforcement of foreign protection orders in which the alleged violation took place
10 before the effective date of the Act. Application of the Act in these circumstances
11 does not constitute an unconstitutional ex post facto law because, under the
12 principles of the Full Faith and Credit Clause of the Constitution of the United
13 States, valid foreign protection orders should have always been entitled to interstate
14 enforcement. The Act, therefore, does not effect a substantive change in the law
15 regarding the enforcement of foreign protection orders; respondents should have
16 always been aware that protection orders issued by States are subject to interstate
17 enforcement. Both the federal Violence Against Women Act and this Act only
18 ensure that States carry out their constitutional responsibility to enforce these
19 orders.

20 **SECTION 7. OTHER REMEDIES.** Pursuit of remedies under this [Act]
21 does not preclude a protected individual from pursuing other legal or equitable
22 remedies against the respondent.

23 **Comment**

24 This section clarifies that the protection orders enforced under the Act are
25 not the only means of protection available to victims of domestic violence. Other
26 legal remedies, such as tort actions and criminal prosecution, are left undisturbed by
27 this Act.

28 **SECTION 8. EFFECTIVE DATE.** This [Act] takes effect on
29